



# TNRCC REGULATORY GUIDANCE

Pollution Cleanup Division  
RG-285  
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## SUBJECT: Small-Business Handbook for Spill Response

### Purpose

The purpose of this handbook is to help small businesses to comply with the Texas Natural Resource Conservation Commission's (TNRCC's) Spill Rule. From this document, you will learn when and how to report a spill and how to enlist the aid of the TNRCC and other authorities, as needed, in responding to a spill. This handbook is for guidance only; it does not replace or supersede the official rules and regulations.

The purpose of the Spill Rule, which is found in Title 30 Texas Administrative Code (30 TAC) Chapter 327, is to deal responsibly with threats to human health or the environment posed by incidents that may cause the contamination of groundwater or surface water. The rule sets guidelines for initial notification, response actions, and follow-up reports that the responsible person must follow when a discharge or spill occurs.

### The Spill Rule—in a Nutshell

The Spill Rule requires the party responsible for causing a spill that by its nature and size presents the threat of contaminating groundwater or surface water to:

- control and contain the spill (or see that this is done);
- clean up the results of the spill (or see that this is done);
- notify the appropriate authorities, which may range from the local fire department to the TNRCC, depending on the threat posed by the spill;
- make follow-up reports to the TNRCC about the continuing progress or completion of the cleanup.

To explain how to comply with the Spill Rule, this document will address the following questions:

- What is a spill (as far as the Spill Rule is concerned)?
- What should I do when the spill is serious?

- What about less serious spills?
- What kinds of spills need to be reported?
- What should my report say?
- Who can tell me what is in my spill?
- How can the TNRCC help me?
- What happens when I report a spill?
- What kinds of spills are not covered by this rule?
- Where do I look for more information?

### What Is a Spill?

As defined in the rule, a spill is any incident in which oil, hazardous substances, industrial waste, or “other substances” contaminate or may contaminate surface water or groundwater in the state of Texas. Because substances spilled on the ground may find their way into groundwater, lakes, rivers, or streams, the definition includes spills on the ground as well as spills that go directly into water.

The definition of a “discharge or spill” is broad; it covers just about any accidental action or oversight that leads to the possible contamination of water. The following examples represent only a few of the many different kinds of incidents that this definition covers:

- A worker at a pest control service discovers that liquid pesticide has leaked from a storage tank into the ground.
- A landscaper rinses tanks that held herbicide, and then the rinse water escapes into a storm sewer.
- A truck loaded with avocados overturns, spilling its cargo and its fuel on the highway.
- A worker at a boat repair shop accidentally pours a solvent-based varnish remover on pavement. Most of the solvent evaporates quickly.
- A trenching crew hits a buried pipeline, causing oil to leak into the surrounding soil.

For simplicity, the term “spill” will be used in this document to refer to any incident covered by the definition

given in 30 TAC Section (§) 327.2 for *discharge or spill*. Certain kinds of incidents that might threaten water supplies are covered by other rules or are under the authority of other agencies. Incidents that are not covered by the Spill Rule are described at the end of this document.

## What Should I Do When the Spill Is Serious?

Whenever a spill or discharge involves an imminent threat to human health, notify local emergency authorities *immediately* and cooperate with them in responding to the spill. “Local emergency authorities” usually means the local fire department and law enforcement agency, but could also mean the local fire marshal, health department, or emergency planning committee.

The rule also calls for the responsible person to take certain reasonable steps to respond to the spill:

- Get to the scene, or make sure that hired response personnel get to the scene.
- Begin efforts to stop the discharge or spill.
- Minimize the impact of the spill to public health, surface water, and the ground or subsurface soil.
- Neutralize the effects of the incident.
- Remove the discharged or spilled substances.
- Manage wastes associated with the spill and cleanup.

## What about Less Serious Spills?

Spills that do not present an imminent threat to human health still must be cleaned up. Even if the spill is small enough that a reporting requirement is not triggered, the person responsible for the spill must make sure that the spill is cleaned up.

## What Kinds of Spills Need to Be Reported?

Whether a spill needs to be reported to the TNRCC depends on the material spilled, how much of it is spilled, and where it is spilled. General guidelines for determining whether a spill must be reported, based on this rule and federal standards, appear in Table 1. Spills involving less than 1 pound of material, except for oil spills, do not need to be reported to the TNRCC. They must be reported to local authorities if they pose an imminent threat to public health.

If the amount of material spilled or discharged within any 24-hour period is equal to or greater than the amount indicated in Table 1, the rule calls for the party responsible for the spill to notify the TNRCC within 24 hours. There are three ways to satisfy this reporting requirement by phone:

- Call **1-800-832-8224** (the Environmental Response

Hot Line). This line is answered 24 hours a day.

- Call the TNRCC Spill Reporting Hot Line, which is also answered 24 hours a day, at 512/463-7727.
- During regular business hours, call the TNRCC regional office that serves the county in which the spill occurred.

The Spill Rule also allows the responsible person to use other reasonable methods to provide this initial notification.

## Spills of a Single Hazardous Substance

Whenever an individual hazardous substance is spilled, determining whether a reportable quantity has been spilled only involves developing a reliable estimate of how much material was spilled and comparing that value with the reportable quantity (RQ) found in the column headed “Final RQ” in Table 302.4 of Title 40 Code of Federal Regulations (40 CFR) Part 302.

## Spills of Mixtures

Whenever a mixture that contains a hazardous substance is spilled, a federal rule, often called the Mixture Rule, is used to determine whether a reportable quantity has been spilled. The wording of the Mixture Rule makes it particularly important for small businesses to know as much as possible about the composition of the materials they use or handle.

According to the Mixture Rule, if a mixture is known to contain a hazardous substance, but the amount of that substance in the mixture is not known, then all of the material spilled is assumed to be the hazardous substance for the purpose of determining whether a reportable spill has occurred. On the other hand, if the composition of the mixture is known, that information is used to determine whether the amount of mixture spilled contains a reportable quantity of the hazardous substance.

To see how the Mixture Rule works, let’s look at two possible outcomes involving the spill of 1 quart of an insecticide containing aldrin. The RQ for aldrin is 1 pound.

*First possible outcome.* Assume that the person responsible for the spill knows only that the insecticide contains aldrin, not *how much* aldrin is in the insecticide. According to the Mixture Rule, all of the material spilled must be assumed to be aldrin under these circumstances. A quart of a solution weighs about 2 pounds, which is greater than the RQ for aldrin. This spill must be reported.

*Second possible outcome.* Now assume that the person responsible for the spill knows that the insecticide contains not more than 1 percent aldrin by weight. According to the

Mixture Rule, this person should then calculate how much aldrin could have been in the quart of solution spilled:

$$2 \text{ lb solution} \times 1 \text{ lb aldrin}/100 \text{ lb} = 0.02 \text{ lb aldrin}$$

If aldrin is the only hazardous substance in the mixture, then this spill does not have to be reported according to the Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA). Be sure to do this sort of calculation for all the substances in the mixture, even if the

product label describes them as “inert” or “filler.”

The difference between the outcomes in the above example is not *what* was spilled, but *what was known* about the material that was spilled. Because one business had more information available about the materials it uses, its employee was able to determine that the spill was insignificant without contacting the TNRCC.

Table 1. Reportable Quantities (RQs) According to the Spill Rule

TYPE OF SPILL	SITE OF SPILL	
	On Land	In Water
<b>Hazardous substance</b>		
If CERCLA RQ = 1–100 lb	CERCLA RQ	CERCLA RQ
If CERCLA RQ > 100 lb	CERCLA RQ	100 lb
<b>Crude oil</b>	210 gal	Enough to form a sheen
<b>Used oil or petroleum product</b>		
At a PST exempt facility*	210 gal	Enough to form a sheen
All others	25 gal	Enough to form a sheen
<b>Oil other than crude oil, used oil, or petroleum product</b>	210 gal	Enough to form a sheen
<b>Other substances</b>	No RQ	100 lb
<b>Industrial solid waste</b>	No RQ	100 lb

NOTE: This table applies only to the reporting of spills and discharges according to the Spill Rule, 30 TAC §§327.1–327.5. To find values of CERCLA RQs for hazardous substances, please refer to 40 CFR Table 302.4.

\*The term “PST exempt facility” refers to facilities that are exempt from the Aboveground Storage Tank Program. Petrochemical plants, petroleum refineries, and electricity generation, transmission, and distribution facilities are some examples of PST exempt facilities.

## What Should My Report Say?

There are a number of different levels of reporting, so let’s go through them one at a time.

### Initial Notification

Within 24 hours, report the following information as best it is known:

- Your name, address, and telephone number (as the person making the report)
- The date, time, and location of the spill
- A specific description of the substance or substances spilled
- An estimate of how much was spilled
- The duration of the incident
- The name of the body of water affected or threatened by the spill
- The source of the spill

- A description of the extent of actual or potential water pollution or harmful impacts to the environment
- An identification of any environmentally sensitive areas or natural resources at risk
- The name, address, and telephone number of the responsible person (if not you)
- The name, address, and telephone number of the contact person at the site of the spill (if not you)
- A description of any action that has been taken, is being taken, or will be taken to contain and respond to the spill
- Any known or anticipated health risks
- The identity of any governmental authorities or agencies that are already responding to the spill
- Any other information that may be significant to the response action

The Spill Rule requires only that you provide all of the

above information that you know—by phone, in person, or in writing. The rule does not require that a written report be on a standard form. You may decide to develop your own form, but the rule also allows you to use the reporting form of any other agency that requires you to report the spill.

If you use the reporting form of another agency and it does not provide all of the information described above, you must add the rest of the required information on a separate sheet.

### **Update Notification**

If anything happens that would trigger a change in the response to the spill—for better or for worse—notify the agency as soon as possible.

### **Correction of Records**

If you report a spill and later decide that the spill did not have to be reported, you may send the regional office a letter to show your reasoning. Be sure to include all the information staff will need to understand your new decision.

If, after reviewing your letter, the regional office staff agrees that the spill was not reportable, that determination will be added to the agency records. If staff disagrees with your decision, the agency will notify you (that is, the responsible person) within 30 days.

### **Other Required Notice**

In addition to notifying the TNRCC and local governmental authorities, make a reasonable attempt to notify the owner and occupants of any property adversely affected by the spill. Provide this notice as soon as possible, but no later than two weeks after discovering the spill.

Notifying the TNRCC satisfies the federal requirement to notify the State Emergency Response Commission, but does not satisfy the notification requirements of any permit or any other local, state, or federal law.

Reporting the spill to the Environmental Response Hot Line (1-800-832-8224) satisfies the initial notification requirements of the Spill Rule and the Texas Water Code. Depending on the material spilled, there may be other reporting requirements.

### **Who Can Tell Me What Is in My Spill?**

It is the responsibility of a business to ensure that its employees know the nature and contents of the materials they handle or use. It is not feasible for any document to cover the full range of possible combinations of substances. The manufacturer or supplier of a product may be a good

source of information about the contents and specific formulation of a proprietary mixture.

Often it is not necessary to know the precise formula of a mixture to know how to classify it under the Spill Rule. The TNRCC regional office is one of a number of possible resources that could help you classify at least some materials into broad reporting categories according to the Spill Rule and CERCLA.

### **How Can the TNRCC Help Me?**

Through your local regional office, the Small Business Assistance Program (1-800-447-2827), and the Emergency Response Section (512/239-2507), the TNRCC can help you prepare for spills before they happen as well as respond to them appropriately when they do.

If minor but reportable spills are an unavoidable part of your business, you might call your regional office to investigate the possibility of making one report on a regular schedule (e.g., once a month) to cover all minor spills that occur in that time frame. Depending on the individual situation, the regional manager may approve such an alternative notification plan for a fixed installation. *Such a plan would require the written approval of the regional manager.*

Your regional manager may also permit you to notify the agency by fax of spills that occur during regular business hours. If you do get permission to notify by fax, you may want to prepare a form that employees can fill out quickly when a spill occurs. You could print information that will not change (e.g., location of the facility, the name of the surface water affected, if any, etc.) as part of the form itself.

### **What Happens When I Report a Spill?**

A number of things:

- Of greatest importance, you ensure that all resources that are available and needed to minimize the impact of the spill are put to use.
- Based on the information you provide, the regional staff of the TNRCC can help you to determine whether the spill is serious and, regardless of whether it is serious, the best ways to control the spill and minimize the damage it may cause.
- If necessary, the TNRCC can help coordinate the response to a spill that poses an imminent threat to public health or sources of water.
- You reduce the range of penalties that could be assessed against you or your business as a result of the spill.

Reporting a spill is not the same as admitting that pollution

has occurred (see “Correction of Records” above).

## Does This Rule Cover *All* Spills?

No, it doesn't. Certain spills would fall under the jurisdiction of other agencies in the state of Texas. The following kinds of spills, discharges, or emissions are covered by other rules:

- Oil spills in or near coastal waters. The Railroad Commission of Texas (RRC) regulates such spills when they are relatively small (240 barrels or less). The Texas General Land Office (GLO) has jurisdiction for larger incidents affecting coastal waters. The term *coastal waters* basically includes the Gulf of Mexico and all of its bays, inlets, and estuaries, as well as portions of their navigable tributaries. A detailed definition of *coastal waters* appears in the GLO Rules, 31 TAC §19.2. When reporting a spill, don't worry about this difference in jurisdiction. Use the Environmental Response Hot Line (1-800-832-8224) to report the spill, and your report will be forwarded to the appropriate agency.
- Spills or waste discharges regulated by the RRC. This essentially means incidents related to the exploration, production, and development of oil, gas, geothermal resources, and uranium. Specific details can be found in the Texas Water Code §26.131.
- Emissions only to air. If you spill a liquid and it then evaporates, the spill is not an “emission only to air.” A spill that evaporates is covered by the Spill Rule and may be covered by other regulations.
- Lawful discharges or waste disposal. This category includes the lawful placement of waste or accidental discharge of material into a solid waste management unit registered or permitted under 30 TAC Chapter 335 Subchapter A; any discharge that is covered by a specific permit, order, or rule issued under U.S. or Texas law, if that permit, order, or rule provides another specific reporting requirement; and discharges or spills that are continuous and stable in nature, and are reported to the U.S. Environmental Protection Agency according to 40 CFR §302.8.
- The lawful application of fertilizers, pesticides, or other materials to land or water.
- Certain activities associated with aboveground and underground storage tanks, which are covered by Texas Water Code Chapter 26 Subchapter I.
- Discharges or spills that occur during the normal course of rail transportation.

## Related Literature

Consider reviewing the following documents or having them available as reference materials.

*State of Texas Oil and Hazardous Substances Spill Contingency Plan.* This document, currently being developed by the cooperation of all state agencies that participate in spill response, is a compilation of all state rules that cover spills. When it is available, you may obtain copies from the TNRCC Publications Unit (512/239-0028).

*State of Texas Coastal Oil Spill Prevention and Response.* 31 TAC Chapter 19. This document comprises the GLO's oil spill rules.

The following documents are available from the U.S. Government Printing Office:

*Title 40 Code of Federal Regulations Part 302.* This is a portion of the federal law dealing with the handling of hazardous substances.

*National Oil and Hazardous Substances Pollution Contingency Plan.* 40 CFR Part 300. This document covers all federal rules on spills.

*Emergency Planning and Notification.* 40 CFR Part 355. The regulation establishes the list of extremely hazardous substances, threshold planning quantities, and facility notification responsibilities necessary for developing and implementing state and local emergency response plans.

*Hazardous Chemical Reporting and Community Right-to-Know.* These regulations establish reporting requirements that provide the public with important information about the hazardous chemicals in their communities.

*Toxic Substances Control Act.* 40 CFR Parts 700–766. Several specific constituents, such as PCBs and dioxins, require additional regulation because of their direct impact on human health and the environment. The TSCA specifies procedures for handling these materials. Additional reporting may also be required.